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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

In re I.L., a Person Coming Under the
Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

I.L.,

Defendant and Appellant.

A144593

(Alameda County
Super. Ct. No. SJ09012995-09)

18-year-old I.L. (appellant) appeals from the juvenile court's dispositional order setting aside its prior commitment placing him at Camp Sweeney after the probation department recommended that appellant be placed in a more restrictive placement. Appellant's counsel has filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 and requests that we conduct an independent review of the record. Appellant was informed of his right to file a supplemental brief and did not do so. Having independently reviewed the record, we conclude there are no issues that require further briefing, and shall affirm the judgment.

FACTUAL AND PROCEDURAL BACKGROUND

Prior Petitions

On July 9, 2009, an original wardship petition was filed alleging that then-12-year-old I.L. committed misdemeanor battery (Pen. Code, § 242,¹ count 1) and misdemeanor vandalism (§ 594, subd. (b)(2)(A), count 2). The juvenile court ordered appellant not to have contact with the victim and to stay away from the victim's property.

On August 23, 2010, a "reopened petition" was filed alleging that appellant committed the following five felonies and four misdemeanors: (1) felony receipt of stolen property (§ 496, count 1); (2) felony auto burglary (§ 459, count 2); (3) felony attempted vehicle theft (§ 664/Veh. Code, § 10851, count 3); (4) misdemeanor resisting arrest (§ 148, subd. (a), count 4); (5) misdemeanor possession of burglary tools (§ 466, count 5); (6) felony driving with willful or wanton disregard for others' safety while fleeing an officer (Veh. Code, § 2800.2, count 6); (7) felony vehicle theft (second vehicle) (Veh. Code, § 10851, count 7); (8) misdemeanor receiving stolen property (§ 496, count 8); and (9) misdemeanor resisting arrest (§ 148, subd. (a), count 9).

Appellant admitted counts 7 and 9 and the remaining counts were dismissed. At disposition, the juvenile court adjudged I.L. a ward of the court, ordered him to be released to his father's custody on electronic monitoring for 120 days, perform 100 hours of community service, pay a \$100 restitution fine and \$1,290 victim restitution fine, and obey all laws.

On September 15, 2010, the probation department reported that appellant had failed on electronic monitoring and had violated a court order by cutting off his monitoring device and leaving home without permission. The juvenile court ordered appellant detained in the Juvenile Justice Center (JJC) and scheduled a progress hearing on October 10, 2010. At the progress hearing, the court released appellant to his mother's custody.

¹All further statutory references are to the Penal Code unless otherwise stated.

On October 7, 2010, a subsequent petition alleged appellant committed: (1) receipt of stolen property property, i.e., bicycles (§ 496, count 1); (2) attempted robbery of the bicycles (§§ 664/211, count 2); and (3) misdemeanor giving a false name to police (§ 148.9, count 3). Appellant admitted count 1 and the remaining counts were dismissed. At disposition, the juvenile court continued appellant as a ward of the court, set the offense level at felony, set the maximum confinement time at four years, and committed appellant to the care, custody and control of the probation officer to be placed in a suitable foster home or private institution or group home with discretion to release him to his mother's custody on GPS monitoring. JJC released him to his mother on November 22, 2010.

A third subsequent petition was filed on November 23, 2010, alleging appellant committed: (1) driving with willful or wanton disregard for safety while evading a police officer (Veh. Code, § 2800.2, subd. (a), count 1); (2) vehicle theft (Veh. Code, § 10851, count 2); and (3) receipt of stolen property (§ 496, count 3). Appellant admitted count 2, and the remaining counts were dismissed. The juvenile court found the maximum confinement time to be four years, eight months, continued appellant as a ward, referred him to the Family Preservation Unit, imposed a \$100 restitution fine, ordered him to perform 100 hours of volunteer work, and released appellant to his mother's custody on GPS monitoring with probation given discretion to vacate monitoring.

On December 16, 2010, a subsequent petition alleged appellant committed: (1) vehicle theft (Veh. Code, § 10851, count 1); (2) felony receipt of stolen property (§ 496, count 2); and (3) driving without a license (Veh. Code, § 12500, subd. (a), count 3). Appellant admitted count 1, and the remaining two counts were dismissed. The maximum confinement time was set as five years, four months.

On February 14, 2011, appellant was placed in Open Line, a group home in Redding, California. On March 23, 2011, probation notified the court that appellant had been terminated from Open Line for continual refusal to comply with program rules, having several write-ups for being AWOL, marijuana use, disrespect toward staff, threatening staff, eight on-site suspensions, and for being arrested for getting into a fight

with a peer. The juvenile court found that appellant had violated a court order, and detained him in the JJC with probation vested with his placement and care until further ordered by the court. Probation placed appellant at Trinity Sacramento, a group home in Sacramento County, California.

Trinity Sacramento terminated appellant from the program on June 27, 2011 due to several incidents of aggressive behavior, threatening staff, defiance, and disrespectful behavior. At a detention/change of placement hearing on June 29, 2011, the juvenile court found appellant had violated the court's order and detained him at the JJC until another placement could be made. The court approved probation's recommendation that appellant be placed at Aiming High Treatment Center in San Bernardino County.

On October 18, 2011, a fifth supplemental petition was filed by probation requesting a more restrictive placement for appellant on the ground that appellant had left Aiming High Treatment Center without permission, remained away without notifying his probation officer, and his whereabouts were unknown. The juvenile court issued an arrest warrant on October 19, 2011, and appellant voluntarily surrendered himself on November 30, 2011. At a detention hearing on December 2, 2011, the court dismissed the violation of probation with the facts open, dismissed the petition, recalled the warrant, and continued appellant as a ward of the court. On February 3, 2012, appellant was placed in Right of Passage-Silver State Academy, a group home in Nevada.

A sixth supplemental petition was filed January 29, 2013 alleging appellant committed first degree burglary (§ 459, count 1). Appellant admitted the allegation and was placed at Clarinda Academy in Iowa on June 4, 2013. Appellant completed the program and was released on May 16, 2014 to his mother's custody.

Recent Petitions

On August 15, 2014, the most recent supplemental petition alleging substantive offenses was filed, alleging appellant: (1) stole a car (Veh. Code, § 10851, count 1); (2) knowingly received stolen property (the same car) (§ 496, subd. (d), count 2); (3) carried a loaded firearm in public (§ 25850, subd. (a), count 3); (4) carried a concealed firearm without a license (§ 25400, subd. (a)(2), count 4); (5) resisted arrest, a

misdemeanor (§ 148, subd. (a), count 5); and (6) failed to stop at the scene of an accident, a misdemeanor (Veh. Code, § 20002, count 6).

The petition was based on incidents that occurred on August 13, 2014, in Oakland, California.² At approximately 4:15 a.m. that morning, an Oakland resident got into his white Toyota vehicle and was inside with the windows rolled up and the engine running, when three young black men came up to his driver-side window and demanded he get out of the car. One of the three men pointed a gun at the victim and threatened to shoot him if he did not comply. The victim feared for his life and got out of the car with his hands in the air. A second man patted him down and took his wallet, cell phone, and money clip. The third man told the other two to get into the Toyota; they did so, and the three drove away. The victim said the man with the gun was wearing blue jeans and a grey hoodie and that the second man was wearing black jeans and a black hoodie. He could not identify what the third man was wearing. All three were about 20 years old, about five feet, 10 inches tall, 160 pounds with a slender build. The victim said he would not be able to identify the three men if he saw them again.

At approximately 12:15 p.m. that same day, Oakland Police Officer D. Meza heard a vehicle collision while parked on Russet Street between 107th Avenue and Moorpark Street in Oakland. He saw a white Toyota with damage to the front passenger side coming toward him. He ran the license plate and learned it was the car that had been carjacked earlier that day. Meza radioed for backup.

A witness told police that he saw the collision, which occurred between the white Toyota and the witness's mother's car. The Toyota drove off after hitting his mother's car, and the witness followed the Toyota in his car. Two men got out of the Toyota and began running, and the witness chased them on foot. One of the men pulled a handgun from his waistband and fired three shots at the witness, hitting the rear windshield of the witness's car; the witness was not injured. Later, in an in-field show-up, the witness

²These facts are taken from the Oakland Police Department Crime Report of August 13, 2014 because appellant admitted the allegations and there was no jurisdictional hearing.

identified appellant as the shooter and the other man as the driver. Police Officer Humphrey observed a four-inch hole in the rear windshield of the witness's car that was consistent with a bullet hole. Humphrey also found three .38 caliber spent shell casings on the street.

Another witness reported to police that he was outside his workplace smoking a cigarette when he saw a white car hit a parked car and drive past him. A black car was following the white car, and both cars made a right turn. About five minutes later, he saw two black men leave a home near the accident site. One of the men pulled a handgun from his waistband and shot once. The witness went back into his workplace building and heard four or five more gunshots. He identified appellant as the shooter in an infield show-up.

A third witness told police that he saw two black young men jump the backyard fence while he was in front of his girlfriend's house. He asked them why they had jumped the fence and one replied, "The Mexicans are shooting at us." The witness asked if they had a gun, and one man responded that he did. The witness told the two men to leave the neighborhood, and the two walked on Bowling Green Street toward 14th Street in San Leandro. The witness called 911 and provided a description of the two men to a 911 operator. Later, the witness identified two men in an infield show-up as the men he saw at his girlfriend's home. He identified the second man—not appellant—as the one who said he had a gun.

Police Officer Mendenhall saw two men of similar description walking on Pontiac Street. As soon as Mendenhall made a U-turn to follow them, the two men ran back into the rear yard of a house. Within a few seconds, one of the men—who identified himself as appellant—left the yard, and was arrested. A resident of the home where the two men were arrested told Police Officer Jason Bryan that one of the men had thrown away a dark jacket in his yard. With the assistance of a police dog, Bryan found a black handgun in the backyard. He also found a discarded cell phone in another yard where the two men had been.

The juvenile court held a combined detention and *Dennis* hearing on August 22, 2014. (*In re Dennis H.* (1971) 19 Cal.App.3d 350 [in a juvenile case, minor has the right to a re-hearing if the probation officer, or preparer of the report(s), is not present at the detention hearing].) The court found probable cause that appellant had committed the offenses in the petition and continued detention in the JJC. Appellant admitted all charges, and the court set the maximum confinement time at nine years, 10 months. On appellant's motion, the court later reduced the maximum confinement time to seven years. At disposition, the court ordered appellant to be placed in a suitable foster home or group home, imposed a \$450 restitution fine, and continued him in JJC custody. The court approved probation's recommendation of Camp Sweeney for appellant's placement.

A supplemental petition filed December 24, 2014 requested the juvenile court impose a more restrictive placement because appellant verbally threatened staff at Camp Sweeney, verbally threatened another resident, hit a staff member with his body, used profanity toward staff and failed to provide a urine sample. Appellant admitted the violations and the court reinstated the Camp Sweeney placement.

Probation reported to the court on March 10, 2015, that appellant had not been transported to Camp Sweeney due to poor behavior at the JJC, including yelling in his room, refusing to follow staff direction, threatening staff, throwing a towel at staff and refusing to return to his room. Probation recommended that the Camp Sweeney order be set aside and another placement found. The court adopted the recommendation and set aside the Camp Sweeney order on March 11, 2015. Appellant filed a timely Notice of Appeal from that order on March 12, 2015.

DISCUSSION

Appellant's counsel has filed a brief pursuant to *People v. Wende, supra*, 25 Cal.3d 436, and asks this court to independently review the entire record to determine if it contains any issues which would, if resolved favorably to the appellant, result in reversal or modification. A review of the record has disclosed no reasonably arguable appellate issue, and we are satisfied that counsel has fully complied with her

responsibilities. (*Ibid.*; *People v. Kelly* (2006) 40 Cal.4th 106.) The juvenile court did not err in setting aside the Camp Sweeney placement order. Based on appellant's extensive history of misconduct and his most recent outbursts reported to the court on March 10, 2015, the court did not abuse its discretion in setting aside that placement order to permit consideration of a more appropriate placement. Appellant was adequately represented by counsel at every stage of the proceedings. There are no issues that require further briefing.

DISPOSITION

The judgment is affirmed.

McGuiness, P.J.

We concur:

Pollak, J.

Siggins, J.